

BILL ANALYSIS

Analyst: Angela Raygoza
Work Phone: 845-7814

Department, Board, Or Commission	Author	Bill Number
Franchise Tax Board	Nava	AB 62

SUBJECT

Disaster Loss Deduction and Excess Loss Carryover/2006 Ventura County Wildfires, El Dorado County Wildfire in 2007, and Zaca Wildfire in Santa Barbara and Ventura Counties in 2007

SUMMARY

This bill would allow taxpayers special tax treatment, called disaster loss treatment, for losses sustained as a result of the wildfires that occurred in Ventura, El Dorado, and Santa Barbara Counties.

PURPOSE OF BILL

According to the author's staff, the purpose of the bill is to provide immediate tax relief to individuals and businesses affected by the wildfires.

EFFECTIVE/OPERATIVE DATE

As an urgency measure, this bill would be effective and operative immediately upon enactment.

ANALYSIS

FEDERAL/STATE LAW

Under federal and state law, a disaster loss occurs when business and personal property is destroyed as a result of a fire, storm, flood, or other natural event in an area proclaimed to be a disaster by the President of the United States.

Under federal and state tax law, individual and business taxpayers may elect to claim the loss either in the year the loss occurs or in the year preceding the loss. This election allows the taxpayer to file an amended return immediately for the prior year.

Under federal and state law, individual taxpayers with non-business disaster losses that are not reimbursed by insurance or otherwise, are deductible to the extent each loss exceeds \$100 or 10% of adjusted gross income.

State tax law identifies specific events as disasters that are then allowed additional special carry forward treatment. That is, 100% of the excess disaster loss may be carried over for up to five taxable years, and if any excess loss remains after the five-year period, the remaining excess loss may be carried over at a specified percentage for up to 10 additional years.

Brian Putler, FTB Contact Person (916) 845-6333 (Office)	Executive Officer Lynette Iwafuchi For Selvi Stanislaus	Date 9/07/07
---	---	-----------------

In addition, for disasters that were not the subject of a Presidential disaster declaration, state law authorizes the deduction of a disaster loss on the return for the prior year if the disaster was the subject of a Governor's proclamation.

THIS BILL

This bill would add the wildfires that occurred in Ventura County in 2006 and in El Dorado, Santa Barbara, and Ventura Counties during 2007 to the current list of specified disasters under the Personal Income Tax Law and the Corporation Tax Law.

This bill would allow special disaster treatment of losses sustained as a result of those wildfires. Specifically, because the President has not proclaimed a disaster for any of these fires, this bill would allow a taxpayer to elect to claim the loss either in the year the loss occurred or in the year preceding the loss. If a taxpayer elects to take the loss in the preceding year, this bill would allow the taxpayer to file an amended return immediately for the prior year.

This bill also contains triple-jointing language that would incorporate provisions from SB 38 (Battin) and SB 114 (Florez). Those bills would allow taxpayers affected by the fires that occurred in Riverside County in 2006 or by the freeze of 2007 disaster loss treatment for their losses.

LEGISLATIVE HISTORY

SB 38 (Battin, 2007/2008) would allow taxpayers disaster loss treatment for losses sustained as a result of the Riverside County Esperanza wildfire. The bill is currently on the Senate floor awaiting concurrence vote.

SB 114 (Florez 2007/2008) would allow taxpayers disaster loss treatment for losses sustained as a result of the freezing conditions that occurred on January 11, 2007. The bill is currently in the second reading on the Assembly floor.

AB 18 (La Malfa, Stats. 2005, Ch.624), allowed taxpayers disaster loss treatment for losses sustained as a result of the following disasters: Shasta County wildfires and the flooding and slides in the counties of Kern, Los Angeles, Orange, Riverside, San Bernardino, San Diego, Santa Barbara, and Ventura.

PROGRAM BACKGROUND

Governor Schwarzenegger proclaimed a state of emergency for the Ventura County wildfire on September 24, 2006; El Dorado County wildfire on July 25, 2007; and Ventura/Santa Barbara Counties on August 3 and August 19, 2007.

FISCAL IMPACT

This bill would not significantly impact the department's costs.

ECONOMIC IMPACT

This revenue impact covers the Ventura 2006 Wildfire, El Dorado County 2007 Wildfire, and the Zaca Fire in Ventura and Santa Barbara Counties in 2007, as discussed below.

Revenue Estimate

Based on data and assumptions discussed below, the Personal Income Tax and Corporation Tax revenue impact from this bill would be as follows:

Revenue Analysis for AB 62 – as Amended 08/27/2007 Operative for Tax Year BOA 1/1/2005 (\$ are rounded)					
Disaster Relief	2005-06	2006-07	2007-08	2008-09	Cumulative Impact
Ventura County (2006)	Loss < \$150,000	Gain < \$150,000	Gain < \$150,000	Gain < \$150,000	Loss < \$150,000
El Dorado County (2007)	None	Loss < \$1M	Gain < \$250,000	Gain < \$250,000	Loss < \$500,000
Santa Barbara/Ventura Counties (2007)	None	None	None	None	None

This analysis does not consider any possible changes in employment, personal income, or gross state product that could result from this bill.

Revenue Discussion

Ventura County Fire

Information from the California Department of Fire shows an estimated \$1.6 million of real property losses for Ventura County. Assuming 20% of such damages would NOT be reimbursed by insurance, but would exceed the 10% of adjusted gross income threshold, an estimated \$330,000 of potential tax deductions would be subject to special treatment as disaster losses ($\$1.6 \text{ million} \times 20\% = \$330,000$). If only half of such casualty losses were reported on 2006 tax year returns AND all excess amounts were deducted as disaster losses on an amended 2005 tax return, roughly \$10,000 in accelerated tax refunds would result ($\$330,000 \text{ deductions} \times 50\% \text{ deductions applied to 2005 tax year} \times 6\% \text{ tax rate} = \$10,000 \text{ revenue loss}$).

The insignificant revenue gains in the later years are a matter of timing. Taxpayers that choose to file an amended return to report the casualty loss immediately will have a higher tax liability in the subsequent income years.

El Dorado County Fire

Information from El Dorado county officials and the California Department of Forestry & Fire Protection along with assumptions about the impacted population, including insurance coverage and the taxability of income, shows total structural damages to be \$142 million. Assuming 20% of those damages would NOT be reimbursed by insurance and would exceed the 10% adjusted gross income threshold, roughly \$28 million of otherwise classified casualty loss deductions would be subject to special treatment as disaster losses ($\$142 \text{ million} \times 20\% = \28 million). This estimate assumes half of the targeted fire casualty losses are reported in the year the event occurred and the remaining 50% are deducted as disaster losses on an amended tax return, an estimated \$1 million in accelerated refunds would result ($\$28 \text{ million} \times 50\% \text{ deductions applied to preceding tax year} \times 6\% \text{ tax rate} = \$852,000 \text{ revenue loss}$).

The insignificant revenue gains in the later years are a matter of timing. Taxpayers that choose to file an amended return to report the casualty loss immediately will have a higher tax liability in the subsequent income years.

2007 Ventura/Santa Barbara County Fire

Information from the California Department of Forestry and Fire Protection indicates 100% of the Zaca Wildfire has been contained as of September 4, 2007. Reports indicate that 240,207 acres of Los Padres National Forest were burned and one uninhabited personal property shed was destroyed. As a result, the Zaca Wildfire is unlikely to result in a disaster loss election, and therefore would not impact state tax revenue.

VOTES

Assembly Floor – Ayes: 40, Noes: 0

Senate Floor – Ayes: 38, Noes: 0

Concurrence – Ayes: 78, Noes: 0

LEGISLATIVE STAFF CONTACT

Angela Raygoza
Franchise Tax Board
(916) 845-7814

angela.raygoza@ftb.ca.gov

Brian Putler
Franchise Tax Board
(916) 845-6333

brian.putler@ftb.ca.gov